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## **CHAPTER 13**

### **FINANCIAL AUDITS AND REVIEWS**

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#### **Introduction**

This chapter provides the types of audits, fiscal reviews, regulations, requirements, processing roles and appeal procedures for State financial management audits, and reviews.

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## **I. GENERAL INFORMATION**

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#### **Audit Regulations and Types**

A local agency receiving WIC program funds shall be audited by an independent agency on an organization-wide basis at a minimum once every year, based upon 7 CFR 246.20 to determine if all of the following apply:

- Financial operations are properly conducted
- Financial reports are fairly presented
- The local agency has complied with all applicable laws, regulations, and administrative requirements that affect the expenditure of WIC program funds.

Local agencies can report pro-rata share costs associated with a financial audit by an independent auditor as allowable reimbursement costs.

The State WIC Branch is required to perform bi-annual management evaluation of local agency operations including local agency financial reports, based on 7 CFR 246.19. The State Controller's Office (SCO) performs the financial management component of these evaluations on behalf of the State of California to meet the biannual requirement.

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The following independent agencies conduct financial and management audits of a local agency:

- Independent CPA Auditors – performs local agency financial audits including A-133 Single Annual audits and Health and Safety (H&S) audits.
- Federal Office of Inspector General (OIG) or Comptroller General of the United States – performs federal audits for the Federal Government.

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## **II. A-133 SINGLE ANNUAL AUDITS**

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### **Audit Requirements**

A private nonprofit local agency that expends **over** \$500,000 annually in total federal awards is required to submit an A-133 Single Annual audit to DHS.

The A-133 Single Annual audit is an independent audit performed for a private nonprofit local agency to determine if funds are expended for allowable costs, if expenditures are in accordance with grant objectives, and if internal controls are in place.

The Single Audit Act Amendments of 1996 and Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments and Non-Profit Organizations established a single audit procedure for grant recipients including: local governments, universities, and private nonprofit organizations.

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**Tracking and Review**

The Maternal, Child and Adolescent Health (MCAH) Branch and the Audits and Investigations (A&I) Section of DHS are responsible for tracking and reviewing A-133 Single Annual audit reports received from a private nonprofit local agency on behalf of the State WIC Branch. The State WIC Branch is responsible for ensuring that private nonprofit local agencies have complied with the requirement to complete the financial audit.

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**MCAH Audit Notifications**

The MCAH Branch will send a letter to private nonprofit local agencies in advance to notify them that their A-133 Single Annual audit will be due soon. MCAH Branch will also request a confirmation from the local agency regarding the type of independent annual audit to be performed.

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**Due Date and Submission**

Three (3) copies of the A-133 Single Annual audit report are due to the MCAH Branch. The audit is due within 9 months following the fiscal year end (FYE). Separate management letters discussed in the A-133 audit report should be sent to the MCAH Branch along with the audit report.

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**Where to Send Audits**

DHS/Primary Care and Family Health Division  
Maternal, Child, and Adolescent Health Branch  
1615 Capitol Avenue, MS 8305  
P.O. Box 997420  
Sacramento, CA 95899-7420  
Attention: Audit Coordinator

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**Extensions**

In some instances, MCAH may provide a private nonprofit local agency with a 30-day extension to the original audit report due date. Such justification requests must be submitted in writing from the local agency to the MCAH Audit Coordinator/Assistant.

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**Response to Late Audits**

The MCAH Branch will send late “warning” notices to private nonprofit local agencies when the MCAH Branch has not received an A-133 Single Annual audit within 30, 60, and 90 days of the audit due date.

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**Consequences of Late Audits**

When a local agency’s audit report is more than 90 days overdue, the State WIC Branch will contact the local agency fiscal officer by telephone and discuss the audit status. If the audit is not submitted immediately within five (5) business days, the State WIC Branch may place the local agency on probation until the audit is received.

Probation will be initiated by the State WIC Branch with a letter to the local agency director. During the probation period, the agency is subject to further fiscal and operational scrutiny and further action may be taken including discontinuing the contract.

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**A-133 Audit Contents and Cycle of Closure**

The A-133 Single Annual audit report submitted by the local agency should include these minimum components:

- Independent auditor’s opinion stating that the audit was conducted in accordance with the provisions of OMB Circular A-133 and in accordance with Generally Accepted Government Auditing Standards (GAGAS).
  - Audited financial statements.
  - Schedule of Expenditures of federal awards and opinion thereon.
  - Schedule of findings and questioned costs.
  - Report regarding the internal controls over compliance with laws and regulations and provisions of contracts or grant agreements that could have direct and material effect on the federal program.
  - Current year findings (if any).
  - Summary schedule of prior audit findings (if any).
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**Deficient Audits**

The A-133 Single Annual audit submitted without the minimum components is a deficient report. When required components are missing from a report, the MCAH Branch will send the local agency an Audit Deficiency Management letter with the list of the deficient items.

The local agency has 30 days to send the MCAH Branch the deficient items. When the deficient items have been received, the MCAH Branch will distribute the report to both the State WIC Branch and A&I for review.

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**Disclosures**

A&I may look for disclosures in the A-133 Single Annual audit that cite any of the following: going concern problems, unresolved legal issues, questioned costs, financial hardship, lack of compliance with contracts, laws or regulations, ineffective internal control measures, and control board turnover.

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**Corrective Action Plan (CAP) Request**

When an A-133 Single Annual audit report review by the MCAH Branch and/or A&I discloses a deficiency needing correction, the MCAH Branch will send a Management Decision letter to request a Corrective Action Plan (CAP) from the local agency.

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**CAP Response**

The local agency must send the MCAH Branch a written CAP within 30 days indicating how the finding(s) will be addressed.

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**Closure Letter**

The MCAH Branch issues a closure letter to the Management Decision Letter when the CAP has been satisfactorily resolved.

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### III. HEALTH AND SAFETY (H&S) AUDITS

#### **Audit Requirements**

The Health and Safety (H&S) audit is an independent annual financial audit conducted for a private nonprofit local agency.

As defined by Health and Safety Code Section(s) 38040 and 38041, if a private nonprofit local agency under a State of California direct service contract, receives **less** than \$500,000 in total federal monies, the private nonprofit local agency is required to submit only the H & S audit to DHS rather than an A-133 Single Annual audit.

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#### **MCAH Audit Notifications**

The MCAH Branch will send a letter to private nonprofit local agencies in advance to notify them that their annual H&S audit will be due soon. MCAH Branch will also request a certification from the local agency regarding the type of independent annual audit to be performed.

#### **Due Date and Submission**

The private nonprofit local agency must mail three (3) copies of the annual H & S audit report to the MCAH Branch within five (5) months and 15 days of a local agency's fiscal year end (FYE).

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#### **Where to Send Audits**

DHS/ Primary Care and Family Health Division  
Maternal, Child, and Adolescent Health Branch  
1615 Capitol Avenue, MS 8305  
P.O. Box 997420  
Sacramento, CA 95899-7420  
Attention: Audit Coordinator

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**Extensions**

In some instances, MCAH may provide a private nonprofit local agency with a 30-day extension to the original audit report due date. Such justification requests must be submitted in writing from the local agency to the MCAH Audit Coordinator/Assistant.

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**Response to Late Audits**

The MCAH Branch will send late “warning” notices to private nonprofit local agencies when the MCAH Branch has not received a H&S audit within 30, 60, and 90 days of the audit due date.

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**Consequences of Late Audits**

When a local agency’s audit report is more than 90 days overdue, the State WIC Branch will contact the local agency fiscal officer by telephone and discuss the audit status. If the audit is not submitted immediately within five (5) business days, the State WIC Branch will place the local agency on probation until the audit is received.

Probation will be initiated by the State WIC Branch with a letter to the local agency director. During the probation period, the local agency is subject to further fiscal and operational scrutiny and further action may be taken including discontinuing the contract.

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**H&S Audit Contents and Cycle of Closure**

The H&S audit, at a minimum, must include:

- Opinion letter – Independent auditor’s report stating that the audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS).
  - Audited Financial Statements.
  - Notes Accompanying the Financial Statements.
  - Separate report in accordance with GAGAS.
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### **Deficient Audits**

The H&S audit submitted without the minimum components is a deficient report. When necessary components are missing from an audit report, the MCAH Branch will send the local agency an Audit Deficiency Management letter with the list of deficient items.

The local agency has 30 days to send the MCAH Branch the deficient items. When the deficient items have been received, the MCAH Branch will distribute the report to both the State WIC Branch and A&I for review. The disclosures, CAP request and response, and closure letter is the same as with the A-133 audit, in the previous section of this chapter.

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## **IV. LOCAL AGENCY FINANCIAL MANAGEMENT REVIEWS**

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### **Periodicity of Financial Management Reviews**

Financial Management Reviews are conducted for the State WIC Branch by the State Controller's Office (SCO) once every two years as part of the required management evaluation. The cost of the SCO review is paid by the State WIC Branch.

A local agency will be notified in advance by SCO to schedule the review dates. Two weeks is usually allotted for the review, although some reviews may take longer to complete. Unannounced reviews may be performed.

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### **Review Period**

SCO will review the time period, at a minimum, two years immediately proceeding the year during which the review is performed. Other years may be included if not previously reviewed to ensure a continuous review trail.

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**Financial Review  
Protocol and Content**

The fiscal review begins with a brief entrance conference. Areas reviewed include, but are not limited to: applications for subvention funds; contracts; invoices; paid warrants; source documents; books of account, working papers, and accounting reports; and other pertinent records identified by review staff.

The SCO financial management review closes with an exit conference during which the reviewers summarize their findings and recommendations.

A local agency shall make all administrative, fiscal, and participant records available to the reviewers during normal business hours.

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**Review Report**

Upon completion of a financial management audit, a final report summarizing the reviewer's findings and recommendations is prepared by SCO review staff and forwarded to the regional advisor and the State WIC Branch, Program Integrity Unit (PIU).

In some instances, a draft report is prepared to allow the local agency to respond and/or submit documents which may not have been available during the review.

The PIU will forward a copy of the report to the local agency with a cover letter which will include instructions of any further action required by the local agency.

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**Corrective Action Plan**

The local agency is requested to submit a corrective action plan within 30 days of receiving the report regarding any program or fiscal weaknesses uncovered as a result of a report, regardless of whether such weaknesses resulted in questioned costs. Submit the Corrective Action Plan to:

Department of Health Services  
Women, Infants, and Children (WIC)  
Supplemental Nutrition Branch  
3901 Lennane Drive  
Sacramento, CA 95834  
Attention: Chief, Program Integrity Unit

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**Recovery of Overpayments**

The local agency will receive a “Notice of Audit Finding” letter with detailed instructions regarding the right to appeal and repayment options.

Claims made against the local agency pursuant to a report by the State or federal government are recovered by one of the following options:

1. the local agency’s remittance to the State of the full amount of the report exception within 30 days following the State’s request for repayment;
2. a reduction of the local agency’s claims for reimbursement for WIC services for one or more months; or
3. a repayment schedule which is agreeable to both the State and the local agency.

If the local agency has filed a valid appeal regarding the report, recovery of overpayments is deferred until a final administrative decision is reached.

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**Interest**

Interest on the unpaid balance of a report finding will accrue at a rate set forth in applicable rule or statute, beginning 30 days after receipt of the State’s demand for repayment.

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**V. APPEALS OF STATE FINANCIAL MANAGEMENT REVIEWS**

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**Right to Appeal and Protocol**

A local agency may appeal the findings of a financial management review conducted by the State Controller’s Office which results in a demand for repayment of questioned costs.

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**Content of Appeal**

The Appeal, also referred to as a “Statement of Disputed Issues” (SDI), must clearly state the following:

1. The issues in dispute;
2. The local agency’s contentions as to those issues; and
3. The monetary amount each disputed issue involves.

Only those issues raised in the Appeal or SDI shall be considered at the hearing.

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**Where to File an Appeal**

The Appeal or “Statement of Disputed Issues” is filed at the following address:

Department of Health Services  
1029 J Street, Suite 200  
Sacramento, CA 95814  
Attention: Chief, Administrative Appeals

The local agency shall also forward a copy of the Appeal to the State WIC Branch to:

Department of Health Services  
Women, Infants, and Children (WIC)  
Supplemental Nutrition Branch  
3901 Lennane Drive  
Sacramento, CA 95834  
Attention: Chief, Program Integrity Unit

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**Deadline for Filing Appeal**

The Appeal or “Statement of Disputed Issues” must be filed within 30 days of the local agency’s receipt of the final “Notice of Audit Findings.”

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**Acceptance of Appeal**

Acceptance With Hearing: The local agency is notified of the date, place, and time of the hearing at least 30 days prior to the scheduled date if both of the following conditions are met:

- a. The “Statement of Disputed Issues” is accepted as a valid appeal.
- b. The hearing officer determines that an informal hearing would be an advisable means of resolving the issues in dispute.

The 30-day prior notification period may be shortened with the consent of both parties.

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**Rescheduling of Hearing**

Upon specific request, either party shall have one opportunity to reschedule the hearing.

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**Dismissal of Hearing**

An appeal shall be dismissed if the local agency fails to appear at the hearing. The dismissal may be vacated if the local agency makes such a request in writing within ten days after receipt of the notice of dismissal, showing good cause for failure to appear.

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**Postponement of Recovery of Questioned Costs**

Recovery of costs questioned in the “Notice of Audit Findings” is deferred until a hearing, if ordered, is held and a final decision rendered. However, if the local agency loses the appeal hearing, interest accrues from 30 days after the initial request for repayment.

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**Hearing Types and Procedures**

The Department of Health Services (DHS) Administrative Appeals Office operates a bi-level hearing process, consisting of Informal Hearings and Formal Hearings. The following are brief descriptions of each type of hearing process:

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### **Informal Hearings**

Upon receipt and acceptance of a Statement of Disputed Issues, the appeal is assigned to a Hearing Officer who is on the staff of the DHS Administrative Appeals Office. The Hearing Officer mails written notice of the date, time, and place of the informal hearing to each party at least 30 calendar days before the date of the hearing. This period may be shortened with the consent of the parties.

The Hearing Officer is not an attorney and can only hear factual issues. The purpose of the Informal Hearing is to provide an opportunity for the parties to resolve any of the disputed issues prior to or in lieu of a Formal Hearing. Testimony is not given under oath and there are no restrictions on who may testify. The Rules of Evidence do not apply and hearsay is admissible. The appellant may introduce any evidence he/she feels is relevant and the Hearing Officer will consider that evidence.

Each party will have the right to:

1. present its case;
2. be represented by counsel, if desired;
3. call and examine parties and witnesses; and
4. introduce exhibits.

Upon request, the appellant (i.e., the local agency) will have the opportunity, prior to the hearing, to review program case records which support the adverse action.

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The Informal Hearing will be electronically recorded for review purposes. Subsequent to the hearing, the Hearing Officer will review the case and render a decision based on the following:

1. Factual evidence introduced prior to, during, and subsequent to (if it is determined during the hearing that additional time will be allowed for submission of evidence) the hearing;
2. Testimony given at the hearing;
3. Position statements submitted prior to or during the hearing; and
4. Statutory and regulatory provisions governing the WIC Program.

The proposed decision, a Report of Findings, will be mailed to the appellant, via certified mail. The Report of Findings will include notice that the appellant may appeal any issues that remain in dispute by requesting a Formal Hearing. Instructions for filing the request will be included with the Report of Findings. The request must be filed within 30 days of receipt of the Report of Findings.

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### **Formal Hearings**

The Formal Hearing is conducted by an Administrative Law Judge (ALJ) and is a trial *de novo* (no consideration will be given to any evidence or testimony given at the Informal Hearing). When it has been determined that a formal hearing will be scheduled, it will be scheduled as soon as possible. Written notice of the time and place of the formal hearing will be mailed to each party at least 30 calendar days before the date of the hearing. This period may be shortened with the consent of the parties.

Upon request, the appellant will have the opportunity, prior to the hearing, to review program case records which support the adverse action.

During the formal hearing, the parties are expected to comply with the following:

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1. Testimony is taken only under oath.
  2. Each party will have the right to:
    - (A) present its case;
    - (B) be represented by counsel, if desired;
    - (C) call and examine parties and witnesses;
    - (D) introduce exhibits;
    - (E) question opposing witnesses and parties on any matter relevant to the issues, even though the matter is covered in direct examination;
    - (F) impeach any witness, regardless of which party first called the witness to testify; and
    - (G) rebut the evidence against him or her.
  3. The appellant shall not be called to testify during presentation of DHS's *prima facie* case, but an appellant who thereafter fails to testify, on his/her own behalf, may be called and examined by DHS as if under cross examination.
  4. The hearing need not be conducted according to technical rules relating to evidence and witnesses, however:
    - (A) relevant evidence, including hearsay, is admitted if it is the sort of evidence which responsible persons are accustomed to rely on in the conduct of serious affairs;
    - (B) hearsay evidence is not sufficient, in itself, to support a finding unless it would be admissible over objection in civil actions;
    - (C) the rules of privilege are in effect to the same extent that they now or hereafter may be recognized in civil actions;
    - (D) irrelevant or unduly repetitious evidence is excluded; and
    - (E) the following additional exception to the "best evidence" rule, Evidence Code Section 1500, applies: A duplicate is admissible to the same extent as an original unless a genuine question is raised as to the authenticity of the original or the duplicate or it would be unfair to admit the duplicate in lieu of the original.
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5. The ALJ may question any party or witness, and may admit any relevant and/or material evidence.
  6. DHS has the initial burden of proof and, therefore, will present its audit findings and evidence first at the hearing.
  7. Once DHS has presented a *prima facie* case, the burden of going forward shifts to the appellant to demonstrate that the appellant's position regarding disputed issues is correct.
  8. The hearing is conducted in the English language; and
  9. The ALJ may require any party to submit written memoranda pertaining to any or all of the issues raised in the appeal hearing.

After the formal hearing, the following process shall take place:

1. The ALJ will take the matter(s) under submission at the conclusion of the hearing.
  2. A proposed decision will be submitted to the Director for adoption by the Director or designee.
  3. Upon submission to the Director, copies of the proposed decision will be mailed to the appellant and delivered to DHS's representative.
  4. The Director may:
    - (A) adopt the decision;
    - (B) reject the proposed decision and have a decision prepared based upon the record, with or without taking additional evidence; or
    - (C) refer the matter back to the ALJ to take additional evidence.
  5. The decision is final upon adoption by the Director and copies of the decision of the Director shall be mailed to the appellant and delivered to DHS's representative.
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**Failure to Appear at the Formal Hearing**

An appeal is dismissed if the appellant fails to appear. The Notice of Dismissal will be mailed to each appellant. The Director may vacate any dismissal if the appellant submits an application in writing within ten calendar days after personal service or receipt of the dismissal showing good cause for failure to appear at the hearing. The parties will be given written notice of an order granting or denying any application to vacate a decision.

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**Judicial Review**

The local agency shall have the right to pursue judicial review of the decision if the local agency is *not* in agreement.

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